strued in the light of the law existing at the time of its adoption. *Murray's Lessee* v. *Hoboken, etc., Co.*, 18 How. 272; *Mattox* v. *U. S.* 156 U. S. 237. Construed thus, "due process of law" seems to mean the same as "the law of the land" in Magna Charta, and to have no reference to taxation. It was intended to secure ancient guaranties, not to establish new ones. The safeguard against unjust taxation was supposed to be the representative system. It is probably true as a matter of the theory of taxation that the basis of special assessments is special benefit. 2 Dillon, Mun. Cor., 4 ed., § 761. But the taxing power is a legislative power, and belongs to the state legislatures except as to objects forbidden by the Constitution. Included in the taxing power is the power of apportionment. It is for the legislature to weigh the benefits and burdens and the other considerations which enter into any plan of apportionment. *People* v. *Brooklyn*, 4 N. Y. 419. Consequently, so long as there is what can be called a real exercise of the taxing power the Fourteenth Amendment is not violated. It is only where it is a mere pretence and subterfuge that there can be said to be any ground for the interference of the Supreme Court. The Fourteenth Amendment has no applicability to the expediency or justice of the tax, nor to the question of its equality. *Kelly* v. *Pittsburgh*, 104 U. S. 78. Equality is sometimes a requisite under state constitutions, but the United States Constitution has no such requirement in regard to state taxation, and cases dealing with this phase of the question are to be carefully distinguished. See *Chicago* v. *Larned*, 34 Ill. 203. It is to be noticed also that, unless some adequate distinction be drawn between special assessments and general *ad valorem* taxation, the latter would seem to be covered by the proposition in *Norwood* v. *Baker*, *supra*, which obviously could not have been intended. If by "special assessment" be meant a tax on less than a political subdivision, the states by exercising their undoubted power of changing their political subdivisions could convert a special assessment into a general tax. 14 HARVARD LAW REVIEW, 1, 98. The court in *Norwood* v. *Baker* seems to have proceeded upon a too narrow view of the Constitution. The decision in *French* v. *Barber, etc., Co.*, *supra*, approved in the principal case is not only sounder in principle, but seems to be supported by the current of decision in the Supreme Court prior to *Norwood* v. *Baker*. *Davidson* v. *New Orleans*, 96 U. S. 97; *Spencer* v. *Merchant*, 125 U. S. 345; *Walston* v. *Nevin*, 128 U. S. 578. Moreover the result seems eminently desirable in view of the prevalence and long standing of the "front foot rule," and further agitation of the question can only result in confusion and practical difficulties.

THE ADMISSIBILITY OF TESTIMONY GIVEN BEFORE A GRAND JURY. — A witness makes self-criminating statements before a grand jury, although warned of his privilege. Subsequently he is accused and brought to trial. The question whether or not his previous testimony can be admitted is raised in a recent Texas case, the court holding such testimony admissible. *Wisdom* v. *State*, 61 S. W. Rep. 926 (Tex. Cr. App.). The decision is based entirely upon the ground that a grand juror is competent to testify to such statements, since he does not thereby violate the secrets of the jury room. This proposition, though apparently well settled, is not conclusive on the question in issue. *Commonwealth* v. *Mead*, 12 Gray, 167.

Two objections not always carefully distinguished are urged against the admissibility of such evidence. The first is that a confession before the grand jury is inadmissible because involuntary. *People* v. *McMahon*, 15 N. Y. 384. Generally, however, testimony of this kind involves an admission, not a confession; for the latter requires an acknowledgment of guilt. 1 Greenl. Ev. § 170. As an admission is not excluded because involuntary, the objection therefore is seldom in fact applicable. *State* v. *Broughton*, 7 Ired. 96. Nevertheless, many cases consider the testimony as an involuntary confession. According to the best authority a confession is excluded as involuntary only when it is obtained by promises or threats in regard to the case itself made by one in authority. Joy Confessions, § 1; *Hopt* v. *Utah*, 110 U. S. 574, 585. A statement under oath before the grand jury, even if a confession, is not as a rule involuntary, because it is seldom induced by such promises or threats. *Commonwealth* v. *King*, 8 Gray 501. Consequently in general, the objection that the testimony is inadmissible as an involuntary confession fails. The second objection is that the accused in violation of his constitutional privilege is obliged to furnish evidence against himself; for when he is before the grand jury he must either testify, or, by exercising his privilege not to criminate himself, furnish an admission by conduct. But according to the weight of authority the prosecution should not be allowed to prove a reliance on privilege, for otherwise the privilege is partially defeated. *National, etc., Bank* v. *Lawrence*, 77 Minn. 282. Even in jurisdictions where the exercise of the privilege can be shown, it would seem that this constitutional right is not violated by admitting the testimony given before the grand jury. For, although the accused is placed where he cannot escape the drawing of an inference from his silence, nevertheless the constitutional provision by its terms seems to apply only to direct testimony, and the accused is not forced to give direct testimony incriminating himself. Cf. *State* v. *Bartlett*, 55 Me. 200, 216.

It seems then as if legally such testimony should be received. Joy Confessions, § VIII. Its exclusion may however be supported as a rule of policy, on grounds of merciful administration. The prosecutor should not be allowed to put a man, not at the time accused, on the rack, and use at the trial what he has extorted. A reasonable rule would be to exclude testimony given before the grand jury unless the witness spoke voluntarily with the understanding that if he chose to remain silent, that fact should not be subsequently brought against him. Such a rule it seems would effect a desirable result, often reached by the courts however on erroneous grounds.

TELEPHONE AND TELEGRAPH COMPANIES AS COMMON CARRIERS. — Whatever may be the scientific distinction between the telephone and telegraph as inventions, it is well settled that the legal status of companies organized for the purpose of transmitting intelligence by their means is the same. *Attorney-General* v. *Edison Telephone Co.*, 6 Q. B. Div. 244. Both may take by eminent domain under proper legislative sanction. *Turnpike Co.* v. *News Co.*, 43 N. J. L. 381; *York Telephone Co.* v. *Keesey*, 5 Pa. Dist. Rep. 366. Both may make reasonable rules and stipulations for the conduct of their business. *Western Union Tele-*